

## Clearinghouse Rule 10-061

Report to  
Legislative Council Rules Clearinghouse  
NR 850, Wis. Adm. Code  
Natural Resources Board Order No. DG-23-10

### Wisconsin Statutory Authority

Sections 227.11 (2)(a) and 281.346 (12), Stats.

### Federal Authority

N/A

### Court Decisions Directly Relevant

None

### Analysis of the Rule – Rule Effect – Reason for the Rule

Section 281.346 (12)(c), created in 2009 Wisconsin Act 28 (the 2009-11 biennial budget bill), directs the Department to promulgate a rule specifying an annual fee for persons who withdraw more than 50,000,000 gallons per year (50 MGY) from the waters of the Great Lakes basin. Revenue from the fee will be deposited to an appropriation funding the implementation of the Great Lakes Compact in the state.

Section 281.346 (12) also provides that any person with a water supply system anywhere in the state with the capacity to withdraw an average of 100,000 gallons per day in any 30-day period must pay to the Department an annual base fee of \$125 – as designated in s. 281.346 (12)(a). The fee imposed in this rule for persons withdrawing more than 50 MGY from surface or groundwater in the Great Lakes basin will be in addition to the base fee of \$125.

The proposed fee for annual Great Lakes basin withdrawals exceeding 50 MGY would increase in 50 million gallon increments as shown in the following table:

<b>Great Lakes Basin-Specific Fee for Withdrawals &gt; 50 MGY</b>	
<b><u>Amount Withdrawn</u></b>	<b><u>Fee Per Million Gallons</u></b>
50 MGY to 100 MGY	\$1.50
100 MGY to 150 MGY	\$2.00
150 MGY to 200 MGY	\$2.50
200 MGY to 250 MGY	\$3.00
250 MGY to 300 MGY	\$3.50
300 MGY to 350 MGY	\$4.00
350 MGY to 400 MGY	\$4.50
400 MGY to 450 MGY	\$5.00
450 MGY to 500 MGY	\$5.50
500 MGY +	\$6.00

The fee for withdrawals exceeding 50 MGY would not exceed \$9,500 annually for withdrawals from a water supply system on a contiguous property or a public water system. The fees specified in this rule will be assessed on a calendar year basis and will be due to the Department by June 30<sup>th</sup> of the following calendar year.

Based on available data and assumptions, the Department projects that the \$125 annual base fee under s. 281.346 (12)(a) will apply to approximately 4900 properties and generate just over \$600,000 annually; and the proposed fee on withdrawals exceeding 50 MGY under s. 281.346 (12)(c) and NR 850 will apply to approximately 250 properties in the Great Lakes basin and generate approximately \$390,000 annually. Revenue from the fees will be deposited to appropriation s. 20.370 (4)(ai) to fund the Department's Great Lakes Compact implementation activities in the state.

The \$125 annual base fee will affect hundreds of small business throughout the state. However, the fee imposed on withdrawals exceeding 50 MGY is expected to primarily affect public water systems, power companies, and large industrial operations in water-intensive industries. The rule will affect an unknown number of small businesses that withdraw more than 50 million gallons of water per year from waters within the Great Lakes basin; however the Department estimates that there are relatively few small businesses that withdraw water at levels exceeding the threshold amounts.

#### Agency Procedures for Promulgation

Public hearings, Natural Resources Board final adoption, followed by legislative review.

#### Description of any Forms (attach copies if available)

None

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